

AMENDED IN SENATE JANUARY 20, 2010

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1004

Introduced by Assembly Member Portantino

February 27, 2009

An act to ~~add Section 53154.5 to the Government~~ amend Sections 48000, 48010, 48012, and 48013 of the Public Resources Code, relating to ~~local government~~ solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1004, as amended, Portantino. ~~Local government: emergency response.~~ Solid waste: State Solid Waste Postclosure and Corrective Action Trust Fund.

(1) *The California Integrated Waste Management Act of 1989 requires a solid waste disposal fee, on and after January 1, 2012, to be increased by \$0.12 per ton for each operator of a solid waste landfill that notifies the Department of Resources Recycling and Recovery that it elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund. However, the fee will not be operative on or after January 1, 2012, unless the department receives, on or before July 1, 2011, letters of participation in the fund from landfill operators representing at least 50% of the total volume of waste disposed of in 2010. The act requires the department to notify the State*

Board of Equalization on or before August 31, 2011, if the increased fee will become operative.

This bill would extend all of those dates by 6 months, except the total volume of waste would still be measured by 2010 standards.

(2) The act requires an operator of a landfill that meets specified requirements, including electing to participate in the fund, to submit written notice to the department on or before July 1, 2011. The act requires an operator that is operating a landfill on July 1, 2011, who submits that notice after the increased fee goes into effect to pay all trust fund fees applicable from January 1, 2012, and a 5% penalty before being allowed to participate. For a new landfill that receives a solid waste facility permit after July 1, 2011, the act requires the operator's election to participate in the fund to be submitted in writing to the department before the department concurs in the issuance of the permit. The act also requires an operator of multiple landfills who is required to maintain evidence of financial ability and whose landfills are operating on July 1, 2011, to include all other landfills in which that operator has in common ownership in the letter of participation.

This bill would extend all of those dates by 6 months.

(3) The act requires the department after January 1, 2015, to report annually on expenditures from the fund, the status of cost recovery actions, and any recommended statutory changes that are necessary to ensure adequate resources are available to carry out the purposes of the fund.

This bill would require the department to begin that annual reporting after January 1, 2016, rather than January 1, 2015.

~~Existing law specifically authorizes a public agency to charge any person who is under the influence of an alcoholic beverage or drug, whose negligent operation of a motor vehicle, boat or vessel, or civil aircraft causes an incident that requires an emergency response, who makes a false police report, or who intentionally, knowingly, and willfully enters into an area that is closed to the public or drives a vehicle on a street or highway that is temporarily covered by a rise in water level, the reasonable expenses of an emergency response to the incident.~~

~~This bill would prohibit a public agency from making residency a determining factor in determining liability for purposes of seeking reimbursement for the expenses of any emergency response.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 48000 of the Public Resources Code is*
2 *amended to read:*

3 48000. (a) Each operator of a disposal facility shall pay a fee
4 quarterly to the State Board of Equalization, which is based on the
5 amount, by weight or volumetric equivalent, as determined by the
6 ~~board~~ *Department of Resources Recycling and Recovery*, of all
7 solid waste disposed of at each disposal site.

8 (b) (1) The fee for solid waste disposed of shall be one dollar
9 and thirty-four cents (\$1.34) per ton. Commencing with the
10 1995–96 fiscal year, the amount of the fee shall be established by
11 the ~~board~~ *Department of Resources Recycling and Recovery* at an
12 amount that is sufficient to generate revenues equivalent to the
13 approved budget for that fiscal year, including a prudent reserve,
14 but shall not exceed one dollar and forty cents (\$1.40) per ton.

15 (2) On and after ~~January~~ *July* 1, 2012, the amount of the fee
16 established by the ~~board~~ *Department of Resources Recycling and*
17 *Recovery* pursuant to paragraph (1) shall be increased by twelve
18 cents (\$0.12) per ton for each operator of a solid waste landfill that
19 notifies the ~~board~~ *department* that it elects to participate in the
20 State Solid Waste Postclosure and Corrective Action Trust Fund
21 pursuant to Article 2.1 (*commencing with Section 48010*).

22 (c) The ~~board~~ *Department of Resources Recycling and Recovery*
23 shall notify the state board on the first day of the period in which
24 the rate shall take effect of any rate change adopted pursuant to
25 paragraphs (1) and (2) of subdivision (b).

26 (d) The ~~board~~ *Department of Resources Recycling and Recovery*
27 and the state board shall ensure that all of the fees for solid waste
28 imposed pursuant to this section that are collected at a transfer
29 station are paid to the state board in accordance with this article.

30 (e) (1) The fee imposed by paragraph (2) of subdivision (b)
31 shall not be operative on or after ~~January~~ *July* 1, 2012, unless the
32 ~~board~~ *Department of Resources Recycling and Recovery* receives,
33 on or before ~~July 1, 2011~~ *January 1, 2012*, letters of participation
34 in the State Solid Waste Postclosure and Corrective Action Trust
35 Fund from landfill operators representing at least 50 percent of the
36 total volume of waste disposed of in 2010.

37 (2) The ~~board~~ *Department of Resources Recycling and Recovery*
38 shall notify the state board, on or before ~~August 31, 2011~~ *February*

29, 2012, if the fee imposed by paragraph (2) of subdivision (b) shall become operative; pursuant to paragraph (1).

SEC. 2. Section 48010 of the Public Resources Code is amended to read:

48010. (a) (1) An operator of a landfill ~~maintain~~ *that maintains* evidence of financial ability pursuant to Article 4 (commencing with Section 43600) of Chapter 2 of Part 4, that is operating the landfill on ~~July 1, 2011~~ *January 1, 2012*, and that elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund pursuant to this article, shall submit written notice to the ~~board~~ *Department of Resources Recycling and Recovery* on or before ~~July 1, 2011~~ *January 1, 2012*.

(2) An operator of multiple landfills that elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund is required to submit written notice that includes all of the operator's operating landfills and all other landfills in which that operator has in common ownership.

(3) The ~~board~~ *Department of Resources Recycling and Recovery* shall provide to the state board the name and address, and any other information necessary to administer and collect the fee imposed pursuant to paragraph (2) of subdivision (b) of Section 48000, of every operator of a landfill electing to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund on or before ~~August 31, 2011~~ *February 29, 2012*.

(b) If an operator that is operating a landfill on ~~July 1, 2011~~ *January 1, 2012*, submits a written notification to the ~~board~~ *Department of Resources Recycling and Recovery* that it elects to participate after the trust fund fee goes into effect, the operator shall pay all trust fund fees applicable from ~~January~~ *July 1, 2012*, and a 5-percent penalty before being allowed to participate.

(c) For new landfills that receive a solid waste facility permit after ~~July 1, 2011~~ *January 1, 2012*, the operator's election to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund shall be submitted in writing to the ~~board~~ *Department of Resources Recycling and Recovery* before the ~~board~~ *department* concurs in the issuance of the permit pursuant to Section 44009.

(d) All elections to participate made by landfill operators pursuant to this section are final, binding, and irrevocable for those operators and their successors and assignees.

1 *SEC. 3. Section 48012 of the Public Resources Code is*
2 *amended to read:*

3 48012. After January 1, ~~2015~~ 2016, as part of the annual report
4 required pursuant to Section 40507, the ~~board~~ *Department of*
5 *Resources Recycling and Recovery* shall report on expenditures
6 from the State Solid Waste Postclosure and Corrective Action
7 Trust Fund, the status of cost recovery actions, and any
8 recommended statutory changes that are necessary to ensure
9 adequate resources are available to carry out the purposes of the
10 State Solid Waste Postclosure and Corrective Action Trust Fund.

11 *SEC. 4. Section 48013 of the Public Resources Code is*
12 *amended to read:*

13 48013. An operator of multiple landfills who is required to
14 maintain evidence of financial ability pursuant to Article 4
15 (commencing with Section 43600) of Chapter 2 of Part 4 and
16 whose landfills are operating on ~~July 1, 2011~~ *January 1, 2012*,
17 shall include all other landfills in which that operator has in
18 common ownership in the letter of participation.

19 ~~SECTION 1. Section 53154.5 is added to the Government~~
20 ~~Code, to read:~~

21 ~~53154.5. A public agency, in making a determination of liability~~
22 ~~for purposes of seeking reimbursement for the expenses of any~~
23 ~~emergency response, shall not make residency a determining factor.~~